

An act to amend Section 1021.8 of the Code of Civil Procedure, and to amend Sections 6300, 6302, 6304, and 6305 of, and to add Section 6433 to, the Water Code, relating to water.

SECURED
COPY



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 17537.3, 22445, 22446.5, 22958, 22962, or 22963 of the Business and Professions Code, Section 52, 52.1, 55.1, or 3494 of the Civil Code, the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations ~~Code Code~~) or the California Commodity Law of 1990 (Division 4.5 (commencing with Section 29500) of Title 4 of the Corporations Code), Section 1615, 2014, or 5650.1 of the Fish and Game Code, Section 4458, 12598, 12606, 12607, 12989.3, 16147, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 43016, 43017, 43154, 104557, or 118950 of the Health and Safety Code, Section 308.1 or 308.3 of the Penal Code, Section 2774.1, 4601.1, 4603, 4605, 30820, 30821.6, 30822, 42847, or 48023 of the Public Resources Code, Section 30101.7 of the Revenue and Taxation Code, or Section 275, 1052, 1845, 13261, 13262, 13264, 13265, 13268, 13304, 13331, 13350, or ~~13385~~ 13385, or Part 1 (commencing with Section 6000) of Division 3, of the Water Code, the court shall award to the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards under this section shall be paid to the Public Rights Law Enforcement Special Fund established by Section 12530 of the Government Code.

(b) This section applies to any action pending on the effective date of this section and to any action filed thereafter.

(c) The amendments made to this section by Chapter 227 of the Statutes of 2004 shall apply to any action pending on the effective date of these amendments and to any action filed thereafter.

SEC. 2. Section 6300 of the Water Code is amended to read:

6300. (a) The application for a new ~~dam or reservoir or enlargement dam or reservoir, or the enlargement, repair, alteration, or removal of an existing dam or reservoir, or enlargement~~ a new dam or reservoir, or the enlargement, repair, alteration, or removal of an existing dam or reservoir, and shall be accompanied by a filing fee based upon the estimated cost and according to the following schedule:

(1) For the first ~~three hundred thousand dollars (\$300,000)~~, a fee of 3 one million dollars (\$1,000,000), a fee of 3.25 percent of the estimated cost.

(2) For the next ~~seven hundred thousand dollars (\$700,000)~~, four million dollars (\$4,000,000), a fee of 2 2.5 percent.

(3) For the next ~~one million dollars (\$1,000,000)~~, fifteen million dollars (\$15,000,000), a fee of 1 ½ 2 percent.

(4) For the next ~~one million dollars (\$1,000,000)~~, thirty million dollars (\$30,000,000), a fee of 1 ¼ 1.75 percent.

(5) For the next ~~two million dollars (\$2,000,000)~~, one hundred million dollars (\$100,000,000), a fee of 1 1.25 percent.

(6) For the next ~~two million dollars (\$2,000,000)~~, three hundred fifty million dollars (\$350,000,000) a fee of three-fourths of 1 0.75 percent.



(7) For all costs in excess of ~~seven million dollars (\$7,000,000)~~, five hundred million dollars (\$500,000,000), a fee of ~~one-half of 1~~ 0.5 percent.

(b) In no case, however, shall the minimum fee be less than ~~three hundred dollars (\$300)~~, one thousand dollars (\$1,000).

(c) The fee schedule in subdivision (a) applies to complete applications, as described in Section 311 of Title 23 of the California Code of Regulations, received after June 30, 2023. Any complete applications received on or before June 30, 2023, shall comply with the filing fee requirements of subdivision (a) as that subdivision read on January 1, 2023.

(d) The estimated project cost may be amended by the dam owner and additional filing fees may be paid to the department up until the date that construction commences.

(e) The department may adjust the fee schedule in subdivision (a) by regulation to ensure the filing fees collected reasonably cover the department's costs for application work, which may include, but is not limited to, design review and construction oversight.

(f) The department may refund filing fees paid by an owner pursuant to this section if requested by the owner. The department may adopt, by regulation, a methodology for determining the criteria and process for filing fee refunds requested by an owner.

SEC. 3. Section 6302 of the Water Code is amended to read:

6302. For the purposes of this part, the estimated cost of the dam or reservoir or enlargement involved a new dam or reservoir, or the enlargement, repair, alteration, or removal of an existing dam or reservoir shall include all of the following:

(a) The cost of all labor and materials entering into the construction of the dam and appurtenant works or reservoir

(b) The cost of preliminary investigations and surveys.

(c) The cost of the construction plant properly chargeable to the cost of the dam or reservoir.

(d) The labor costs of the owner for preparing environmental documentation to meet the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

~~(d)~~

(e) Any and all other items entering directly into the cost of the dam or reservoir.

SEC. 4. Section 6304 of the Water Code is amended to read:

6304. An application shall not be considered by the department until at least 20 percent of the filing fee is received; received, unless otherwise approved by the department. The application shall not be approved by the department until the filing fee is received in full.

SEC. 5. Section 6305 of the Water Code is amended to read:

6305. In the event the actual cost exceeds the estimated cost by more than 15 percent, a further fee shall be required by the department before final approval and shall be 115 percent of the amount by which the original fee is less than it would have been had the cost it was based upon been the same as the actual cost. No further fee shall be required, however, if such that fee is to be computed at less than twenty dollars (\$20). five hundred dollars (\$500).

SEC. 6. Section 6433 is added to the Water Code, immediately following Section 6432, to read:

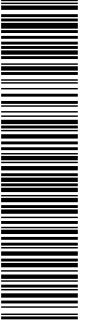


6433. (a) The Attorney General, upon request of the department, shall bring an action in superior court seeking injunctive relief, penalties, fees, costs, or any other remedies available to the department under this division.

(b) Any action or proceeding under this division shall be commenced in the superior court in the county that the cause or some part thereof arose, the owner or person complained of has its principal place of business, or the owner or person complained of resides.

(c) In any civil action brought pursuant to this division that the department determines there is a threat to human health, safety, or the environment, and seeks a temporary restraining order, preliminary injunction, or permanent injunction, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued, or that the remedy at law is inadequate, and the temporary restraining order, preliminary injunction, or permanent injunction shall issue without those allegations and proof.

- 0 -



230964672825BILL

LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Dams and reservoirs: fees.

(1) Existing law requires that whenever the Attorney General prevails in a civil action to enforce specified laws, the court is to award the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs, to be paid to the Public Rights Law Enforcement Special Fund.

This bill would add specified provisions of the Water Code to the above-described provision. The bill would require the Attorney General, upon request of the Department of Water Resources, to bring an action in superior court seeking injunctive relief, penalties, fees, costs, or any other remedies available to the department, as specified.

(2) Existing law requires the Department of Water Resources to inspect dams, reservoirs, and appurtenant structures to verify their safety, as specified. Existing law prevents the construction of any new dam or reservoir or the enlargement of any dam or reservoir until the owner has applied for and obtained from the department written approval of plans and specifications. Existing law requires the owner to submit an application to the department and prescribes a fee schedule based upon the estimated cost of the dam, reservoir, or enlargement for the filing of that application. Existing law requires the estimated cost of the dam or reservoir or enlargement to include specified information.

This bill would increase the specified fees for the filing of an application, as specified, and would include the repair, alteration, or removal of an existing dam or reservoir. The bill would authorize the department to adjust the fee schedule by regulation to ensure the filing fees collected reasonably cover the department's costs of application work, which may include, but is not limited to, design review and construction oversight. The bill would authorize the department to refund filing fees paid by an owner if requested by the owner. The bill would authorize the department to adopt, by regulation, a methodology for determining the criteria and process for filing fee refunds requested by an owner. The bill would require the estimated cost of a new dam or reservoir, or the enlargement, alteration, repair, or removal of an existing dam or reservoir to include the labor costs of the owner for preparing environmental documentation to meet the requirements of the California Environmental Quality Act.

(3) Existing law provides that in the event the actual cost exceeds the estimated cost by more than 15%, a further fee is required by the department before final approval, as specified, but that no further fee is required if the fee is to be computed at less than \$20.

This bill would increase the above-described amount to \$500.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

